

## **CHAPTER 465 PSYCHOLOGISTS**

### **SECTION**

465-1	Definitions
465-2	License required
465-3	Exceptions
465-3.5	Public service employment
465-4	Board of psychology; appointment, qualifications, term, expenses
465-5	Repealed
465-6	Powers and duties
465-7	Requirements for licensing
465-7.3	Repealed
465-7.4	Repealed
465-7.5	Foreign graduates
465-7.6	Licensure of state employed clinical psychologists
465-8	Licenses, issuance, display
465-9	Temporary permit
465-10	Examination waiver
465-11	Renewals
465-12	Fees; disposition
465-13	Denial, suspension, revocation of license, or probation of a license holder
465-14	Repealed
465-14.5	Repealed
465-15	Prohibited acts; penalties

**§465-1 Definitions.** As used in this chapter, unless the context otherwise requires:

"Board" means the board of psychology.

"Director" means the director of commerce and consumer affairs.

"Institution of higher education" means a university, professional school, or other institution of higher learning that:

- (1) In the United States, is regionally accredited by bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education;
- (2) In Canada, holds a membership in the Association of Universities and Colleges of Canada; or
- (3) In other countries, is accredited by the respective official organization having such authority.

"Licensed" means the authority to engage in the autonomous practice of psychology. The terms certified, registered, chartered, or any other term chosen by a jurisdiction used in the same capacity as licensed are considered equivalent terms.

"Practice of psychology" means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures,

for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health. The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

"Professional psychology training program" means a doctoral training program that includes (1) and (2), or (1) and (3) of the following:

- (1) Is a planned program of study which reflects an integration of the science and practice of psychology including practica and internship; and
- (2) Is designated as a doctoral program in psychology by the Association of State and Provincial Psychology Boards and the National Register of Health Service Providers in Psychology or is accredited by the Canadian Psychological Association; or
- (3) Is offered in a regionally accredited institution of higher education.

"Psychologist" means a person who offers to the public or renders to individuals or to groups of individuals services defined as the practice of psychology. A person represents to be a psychologist if the person uses any title or description of services incorporating the words "psychology," "psychological," "psychologist," or "psychotherapy," or if the person offers or renders to individuals or to groups of individuals services defined as the practice of psychology.

"Regionally accredited institution" means an institution of higher education accredited by the bodies approved by the Council on Postsecondary Accreditation and the United States Department of Education.

**§465-2 License required.** Except as otherwise provided in this chapter, it shall be unlawful to represent one's self as a psychologist or engage in the practice of psychology without having first obtained a license as provided in this chapter.

**§465-3 Exemptions.** (a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university; provided that the person shall not engage in the practice of psychology outside the responsibilities of the person's employment;
- (2) Any person who performs any, or any combination of the professional services defined as the practice of psychology under the direction of a licensed psychologist in accordance with rules adopted by the board; provided that the person may use the term

"psychological assistant", but shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology;

- (3) Any person employed by a local, state, or federal government agency in a school psychologist or psychological examiner position, or a position that does not involve diagnostic or treatment services, but only at those times when that person is carrying out the functions of such government employment;
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title as "psychology trainee", "psychology student", "psychology intern", or "psychology resident", that indicates the person's training status; provided that the person shall not identify the person's self as a psychologist or imply that the person is licensed to practice psychology;
- (5) Any person who is a member of another profession licensed under the laws of this jurisdiction to render or advertise services, including psychotherapy, within the scope of practice as defined in the statutes or rules regulating the person's professional practice; provided that, notwithstanding section 465-1, the person does not represent the person's self to be a psychologist or does not represent that the person is licensed to practice psychology;
- (6) Any person who is a member of a mental health profession not requiring licensure; provided that the person functions only within the person's professional capacities; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological; or
- (7) Any person who is a duly recognized member of the clergy; provided that the person functions only within the person's capacities as a member of the clergy; and provided further that the person does not represent the person to be a psychologist, or the person's services as psychological.

(b) Nothing in this chapter shall in any way restrict any person from carrying on any of the psychological activities as defined in section 465-1; provided that such person does not offer psychological services as defined in this chapter except as such activities are incidental to the person's lawful occupational purpose.

(c) A person may use the title of industrial/organizational psychologist, provided that the person registers with the board, and:

- (1) Is professionally competent in the practice of industrial/organizational psychology; and
- (2) Holds a doctoral degree from an accredited institution of higher education with training and education in industrial/organizational psychology, satisfactory to the board; and
- (3) Provides psychological service or consultation to organizations which does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals, without regard to the source or extent of payment for services rendered.

(d) Nothing in this chapter shall prevent the provision of expert testimony by a psychologist who is otherwise exempted by this chapter.

(e) Nothing in this chapter shall be construed as permitting the administration of prescription of drugs, or in any way engaging in the practice of medicine as defined in the laws of the State.

**[§465-3.5] Public service employment.** (a) Notwithstanding other provisions in this chapter the director of health may certify that there is an absence or shortage of licensed psychologists for government employment in a particular locality. Upon receiving certification of the absence or shortage, the board shall authorize the director to hire and retain persons currently in government employment to fill the absence or shortage; provided persons hired or retained have been duly licensed as a psychologist by written examination under the laws of another state or territory of the United States prior to 1977.

(b) Persons hired and retained under this section shall be exempt from the requirements of this chapter for no more than eighteen months while employed in a government position that the director continues to certify as subject to an absence or shortage.

(c) In no case shall persons hired and retained under the provisions of this section provide private patient care for a fee.

**§465-4 Board of psychology; appointment, qualifications, term, expenses.** There is created a board of psychology consisting of seven members. There shall be five members representing varied specialties of the profession, each of whom shall be licensed to practice psychology under this chapter and have a minimum of five years of post-doctoral professional experience, and two lay members from the community at large. A lay member shall not be a psychologist, an applicant, or former applicant for licensure as a psychologist.

#### **§465-5 REPEALED.**

**§465-6 Powers and duties.** In addition to any other powers and duties authorized by law, the board shall:

- (1) Examine the qualifications of applicants for licensing under this chapter to determine their eligibility for licensing as psychologists;
- (2) Administer and grade examinations for applicants as may be required for the purposes of this chapter. The board shall determine the examinations and the score that shall be deemed a passing score. Examinations shall be scheduled at least once annually;
- (3) Keep a record of action taken on all applicants for licensing; the names of all persons licensed; petitions for temporary permits; actions involving suspension, revocation, or denial of licenses; decisions on waiver of examination in whole or in part and receipt and disbursement of any moneys; and
- (4) Adopt, amend, and repeal pursuant to chapter 91, rules as it deems proper for the purposes of this chapter.

**§465-7 Requirements for licensing.** (a) Every applicant for a license as a psychologist shall submit evidence satisfactory to the board that the applicant meets the following requirements:

- (1) The applicant for licensure shall possess a doctoral degree from:
  - (A) An American Psychological Association approved program in clinical psychology; or
  - (B) A professional psychology training program, awarded by an institution of higher education, or from a regionally accredited institution;
- (2) The applicant for licensure shall demonstrate that the applicant has completed one year of post doctoral supervised experience in health service in psychology, and:
  - (A) An internship approved by the American Psychological Association; or
  - (B) One year of supervised experience in health service in psychology in an internship or residency program in an organized health service training program; and
- (3) The applicant for licensure has passed a written examination as may be prescribed by the board.
- (b) Notwithstanding subsection (a), a license may be issued to an applicant who holds a diplomate certificate in good standing granted by the American Board of Professional Psychology.
- (c) A license may be issued to a senior psychologist who satisfies subsection (a)(1) and (2), and the following:

- (1) Holds a valid and current license in another jurisdiction in which the Examination for Professional Practice in Psychology was not required for licensure at the time of licensure or in a jurisdiction in which the Examination for Professional Practice in Psychology was required and the applicant obtained a score that was equal to or higher than the board's passing score at the time the applicant sat for the Examination for Professional Practice in Psychology;
- (2) Before application in this jurisdiction, has been licensed as a psychologist for at least twenty years in United States or Canadian jurisdictions where that license was based on a doctoral degree. The total of twenty years shall be obtained by counting sequential, not concurrent, years of licensure;
- (3) Has had no disciplinary sanction against the person's license in any jurisdiction during the entire period of being licensed as a psychologist;
- (4) Has passed an open book examination in jurisprudence; and
- (5) Has submitted the application and fees as required.

NOTE. L 1985, c 115, §19 provides: "Any person enrolled in an APA-approved program or a regionally accredited school prior to January 1, 1986, and who meets the requirements established by the Board of Psychology, need not meet the one year, supervised post-doctoral clinical experience requirement and shall be allowed to sit for the examination."

**§465-7.3 REPEALED.**

#### **§465-7.4 REPEALED.**

**§465-7.5 Foreign graduates.** An applicant trained in an institution other than an institution of higher education as defined in this chapter must demonstrate to the satisfaction of the board that the applicant possesses a doctoral degree in psychology, the requirements for which are substantially similar to the requirements for a doctoral degree in professional psychology as required in this chapter. The board shall consider the certification of the graduate division of the University of Hawaii that the degree from the foreign university is equivalent to a doctoral degree granted from an institution of higher education as defined in this chapter.

**[§465-7.6] Licensure of state employed clinical psychologists.** (a) A psychologist providing diagnostic or treatment services in a clinical psychologist civil service position shall be licensed under this chapter; provided that a psychologist employed in a clinical psychologist position with a government agency in this State prior to January 1, 1988, shall be eligible for licensure subject to:

- (1) Meeting the requirements of section 465-7(a)(1) and (3); provided that the examination requirement shall be limited to the state jurisprudence open book examination;
- (2) Holding or having held the nonemergency hire position for two years; and
- (3) Obtaining licensure before June 30, 1990.

(b) A psychologist employed in a civil service clinical psychologist position in this State after January 1, 1988, shall be licensed subject to:

- (1) Meeting the requirements of section 465-7; and
- (2) Obtaining licensure within two years from the date of employment.

(c) After the time period of subsections (a)(3) or (b)(2) has expired, a psychologist, employed in a civil service clinical psychologist position rendering diagnostic or treatment services, who has not obtained a license, shall immediately cease and desist the practice of psychology until a license is obtained pursuant to this chapter.

**§465-8 Licenses, issuance, display.** Upon the board forwarding to the director the name of each applicant who is entitled to a license under this chapter and upon receipt of the prescribed fee, the director shall promptly issue to each applicant a license authorizing the applicant to engage in the practice of psychology for a period of two years. The license shall be in the form as the director shall determine. A licensed psychologist shall display the license in a conspicuous place in the psychologist's principal place of business.

**§465-9 Temporary permit.** A person not licensed in the State who wishes to engage in the practice of psychology for a period not to exceed ninety days within a calendar year shall petition the board for a temporary permit. If the person is licensed or certified in another state deemed by the

board to have standards equivalent to this chapter, the person shall be entitled to a temporary permit in the same manner and subject to the same conditions specified in section 465-8 applicable to the issuance of licenses. The period of ninety days may be extended at the discretion of the board but not to exceed ninety days.

**§465-10 Examination waiver.** (a) The board may recommend licensing without written examination of an applicant who has not previously failed to pass an examination in psychology prescribed by the board and who submits evidence satisfactory to the board that the applicant is certified or licensed, and in good standing, to practice psychology in another state deemed by the board to have standards equivalent to this chapter.

(b) The director shall issue a license under this section in the same manner and subject to the same conditions specified in section 465-8.

**§465-11 Renewals.** (a) Every license issued under this chapter shall be renewed biennially on or before June 30 of each even-numbered year. Failure to renew a license shall suspend the license; provided that a psychologist whose license has been suspended for failure to renew may reinstate the license by payment of the renewal fee for the biennium in which the failure occurred, and provided that the period of suspension is not greater than one year. If licensing has lapsed for more than one year, the person may reapply for a license in the manner prescribed in the previous sections of this chapter.

(b) A psychologist in good standing who will not be practicing in the State for at least one year may petition the board to have the psychologist's license placed on inactive status without penalty. When the psychologist wishes to return to practice, an application shall be made to the board for reinstatement upon payment of the license fee for the biennial period and subject to the board's review of the application as provided in its rules.

**§465-12 Fees; disposition.** Application, examination, license, renewal, and temporary permit fees required by this chapter, none of which are refundable, shall be as provided in rules adopted by the director pursuant to chapter 91.

**§465-13 Denial, suspension, revocation of license, or probation of a license holder.** (a) In addition to any other actions authorized by law, the board shall refuse to grant a license to any applicant and may revoke or suspend any license, or may place a license, or may put a license holder on conditional probation, for any cause authorized by law, including but not limited to the following:

- (1) Professional misconduct, gross carelessness, manifest incapacity, or incompetency in the practice of psychology;
- (2) Violation of this chapter by the applicant within one year of the application, or violation of this chapter by a license holder any time the license is valid;

- (3) Any unethical practice of psychology as defined by the board in accordance with its own rules;
  - (4) Fraud or deception in applying for or procuring a license to practice psychology as defined in section 465-1;
  - (5) Conviction of a crime substantially related to the qualifications, functions, or duties of psychologists;
  - (6) Wilful unauthorized communication of information received in professional confidence;
  - (7) The suspension, revocation, or imposition of probationary conditions by another state of a license or certificate to practice psychology issued by that state if the act for which the disciplinary action was taken constitutes a violation of this chapter;
  - (8) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a client, or sexual misconduct that is substantially related to the qualifications, functions, or duties of a psychologist;
  - (9) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient;
  - (10) Exercising undue influence in the manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party;
  - (11) Conviction of fraud in filing medicaid claims or conviction of fraud in filing claims to any third party payor, for which a copy of the record of conviction, certified by the clerk of the court entering the conviction, shall be conclusive evidence;
  - (12) Aiding or abetting any unlicensed person to engage in the practice of psychology;
  - (13) Repeated acts of excessive treatment or use of diagnostic procedures as determined by the standard of the local community of licensees;
  - (14) Inability to practice psychology with reasonable skill and safety to patients or clients by reason of illness, inebriation, or excessive use of any substance, or as a result of any mental or physical condition;
  - (15) Conviction of any crime or offense that reflects the inability of the practitioner to practice psychology with due regard for the health and safety of clients or patients;
  - (16) Use of untruthful or deceptive or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment;
  - (17) Functioning outside of the licensee's professional competence established by education, training, and experience;
  - (18) Refusal to comply with any written order of the board;
  - (19) Making any fraudulent or untrue statement to the board; or
  - (20) Violation of a board rule.
- (b) The board at its discretion may order any licensee who is placed on probation or whose license is suspended to obtain additional training and to take an examination as prescribed by the board.

**§465-14 REPEALED.**

**§465-14.5 REPEALED.**



**§465-15 Prohibited acts; penalties.** (a) No person shall:

- (1) Use in connection with the person's name any designation tending to imply that the person is a licensed psychologist unless the person is duly licensed and authorized under this chapter;
  - (2) Represent oneself as a licensed psychologist during the time the person's license issued under this chapter is suspended or revoked;
  - (3) Advertise or make a representation, either publicly or privately, as being a psychologist, licensed or otherwise, or as being able to perform professional services described in section 465-1, except as otherwise provided in this chapter, without having a valid unrevoked license or temporary permit issued by the director; or
  - (4) Otherwise violate this chapter.
- (b) Any person who violates this chapter shall be fined not more than \$1,000 for each violation of this chapter or imprisoned not more than one year, or both.